2820

SUPREME COURT OF THE UNITED STATES.

No. 270.

THE UNITED STATES, APPELLANTS,

vs.

THE WIDOW AND HEIRS OF MARCUS WEST, DEC'D.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 251—*Marcos West, claimant,* vs. *The United States, defendant—for the place named "San Miguel."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this thirty-first day of May, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Marcos West, for the place named "San Miguel," was presented, and ordered to be filed and docketed with No. 251, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

SAN FRANCISCO, *August 6th*, 1852.

In case No. 251, heirs of Marcos West, for the place named "San Miguel," the deposition of M. J. Vallejo, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Sept.* 23*d*, 1853.

Case No. 251 was ordered, on the motion of the counsel for the claimants, to the foot of the docket.

SAN FRANCISCO, *January* 30, 1854.

In the same case the deposition of Mariano G. Vallejo, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *July 10th*, 1854.

In the same case the deposition of Pablo de la Guerra, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 9 of this Transcript.)

SAN FRANCISCO, *September 19th*, 1854.

Case No. 251 was ordered to be placed at the foot of the 2d class cases on the trial docket.

SAN FRANCISCO, *October* 30*th*, 1854.

In the same case the deposition of J. J. Warner, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 13 of this Transcript.)

SAN FRANCISCO, *October* 31*st*, 1854.

In the same case the counsel for the claimants filed the following appearance, to wit:

(Vide page 31 of this Transcript.)

SAN FRANCISCO, *November* 7*th*, 1854.

Case No. 251 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *November* 27*th*, 1854.

In the same case the deposition of José de la Rosa, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(Vide page 20 of this Transcript.)

SAN FRANCISCO, *December* 1*st*, 1854.

In the same case the deposition of James M. Hudspeth, a witness in behalf of the United States, taken before Commissioner Peter Lott, was filed.

(Vide page 25 of this Transcript.)

SAN FRANCISCO, *December* 26*th*, 1854.

Case No. 251 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *March* 13*th*, 1855.

Case No. 251 was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *March* 30*th*, 1855.

In the same case the deposition of Victor Prudan, a witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed in accordance with the stipulation annexed thereto.

(Vide page 32 of this Transcript.)

SAN FRANCISCO, *April* 24*th*, 1855.

In the same case Commissioner J. B. Farwell delivered the opinion of the board rejecting the claim.

(Vide page 66 of this Transcript.)

And the following order was made, to wit:

(Vide page 70 of this Transcript.)

Petition.

To the Honorable Commissioners to settle private land claims in California.

The petitioners, Guadalupe Vasquez de West, widow, and Marcos West, Guadalupe West, Adalaide West, children of Marcos West, deceased, respectfully show:

That, on the 2d day of November, A. D. 1840, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the said Marcus West the tract of land called San Miguel, in the jurisdiction of Sonoma, with the boundaries described in said map, all of which is shown by the espediente, a copy of which is submitted herewith, marked "A," with a translation, marked "B."

That, finding an error in the aforesaid title respecting the extent of land mentioned therein, the said West, on the 19th day of September, petitioned for a new patent, which was accordingly issued to him by the said Manuel Micheltorena, governor of California, by virtue of authority in him vested, on the 14th day of October, A. D. 1844, a copy of which petition and title is submitted herewith, marked C, with a translation, marked D.

That the said grant was subsequently approved by the departmental assembly of California.

That, on the day of , A. D. 1850, the said Marcus West died, leaving the petitioners, his widow and children, as his heirs.

That the said tract of land has not been surveyed by the surveyor general of the United States, but that its boundaries are fully described in the title papers, and set forth in the corresponding map.

That from the year 1840, to the time of his death, the said Marcus West occupied the said tract of land, and that since his death the petitioners, his widow and children, have been, and now are, in the quiet possession and occupation of said tract of land.

That they know of no conflicting claim.

That they rely for confirmation of title on the original papers, copies of which are submitted herewith, and upon such other and further proof as they may be advised are necessary.

Wherefore they pray the commissioners to confirm to them the aforesaid tract of land.

By their att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office May 31, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of M. G. Vallejo.

SAN FRANCISCO, *April* 7, 1852.

On this day before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, came M.

G. Vallejo, a witness produced on behalf of the claimants, heirs of Marcus West, whose petition is No. 251 on the docket of the board, and was duly sworn. His evidence being given in Spanish, was interpreted by the secretary.

The U. S. law agent attended.

1st question. What is your name, age, and place of residence?

Answer. My name is Mariano Guadalupe Vallejo; my age is 45 years; I reside in Sonoma, and have resided in California.

2d question. Do you know the rancho of San Miguel, claimed by the heirs of Marcos West? and if so, say what you know about its ownership and occupation, and where it is situate.

Answer. I have known this rancho some 20 years; it is situate in the county of Sonoma, about 7 or 8 leagues from Sonoma. It was first occupied by Marcos West about the year 1838; he received a grant for this land in 1840 from Governor Alvarado, which grant was revalidated by Governor Micheltorena in 1844. Marcus West occupied this land from 1838 to the time of his death, in 1849, and it has ever since been occupied by his widow and children. West first built a house on the land in 1838, and afterwards several other houses; he also occupied the land with cattle and horses, and cultivated a part of it; he had about 200 horses and some 2,000 cattle on the land, and cultivated about 200 acres with grain and vegetables.

3d question. Are you acquainted with the signatures of Marcos West, Jacob P. Leese, Manuel Micheltorena and Manuel Jimeno? and if so, say whether their signatures to the papers before you, marked (A), are genuine, and whether the papers are genuine and originals.

Answer. I am well acquainted with the signatures of Marcos West, Jacob P. Leese, Manuel Micheltorena and Manuel Jimeno, having often seen them write their signatures to the papers before me; are genuine, and the papers are genuine and originals.

M. G. VALLEJO.

I decline cross-interrogation.

GEO. W. COOLEY,
U. S. Law Agent.

The above deposition was sworn to and subscribed before me, the 6th August, 1852.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office August 6, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of M. G. Vallejo.

UNITED STATES LAND COMMISSION,
San Francisco, Jan. 30, 1854.

On this day, before Commissioner R. Aug. Thompson, came

Mariano G. Vallejo, a witness in behalf of claimants, Guadalupe Vasquez de West et al., No. 251, who, after being duly sworn, deposed as follows, his evidence being interpreted by the secretary.

Present, claimants' att'y and R. Greenhow, esq., U. S. assistant law agent.

Witness states his name is Mariano G. Vallejo; age forty-six years, and residence Sonoma, Cala.

Question by Claimants' Attorney.

State if you know the name of the widow and children of Marcos West, dec'd; and if so, name them.

Answer. I know their names; the widow of said West is called Guadalupe Vasquez de West; the children are, Marcos, Adelaydo, Guadalupe, Juan, Guillermo, Carlos, Genobiha, and Maria del Carmen.

Question by same. Do you know the boundaries of the rancho of San Miguel, claimed by the petitioners in this case? and if so, describe them with reference to the map contained in the traced copy of the espediente filed in the case.

Answer. On the northwest is bounded by the Arroyo Seco, to its junction with Russian river, and by the last mentioned river to the line of Cooper's ranch; thence with said line to a stream, which is the outlet of the Laguna Grando de la Rosa, the Indian name of which is "Patigonio;" thence along said stream and the Laguna de la Rosa to the line of Carillos; thence along said line in an easterly direction, to a spring on the side of the mountain; thence along the chain of mountains called the Sierra Chinan, by a marked line, to a large oak marked as a corner, on the hill-side, near the Arroyo Seco, which is the point of beginning.

The grant was made for six leagues, but, from my knowledge of the boundaries, I do not think it contains over four and a half, though some have estimated as high as five leagues.

M. G. VALLEJO.

Sworn to and subscribed before me, Jan. 30th, 1854.

R. AUG. THOMPSON, *Com'r.*

Filed in office Jan. 30, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of Pablo de la Guerra.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *July* 10, 1854.

This day personally came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Pablo de la Guerra, a witness on behalf of the United States in case No. 251, wherein Guadalupe Vasquez de West

et al. are claimants, and said witness being duly sworn, on oath deposed in English, as follows.

Claimants' counsel is present. The U. S. law agent is present, and propounded the following questions:

1st question. What is your name, age, and residence?

Answer. My name is Pablo de la Guerra; my age 34 years; my residence Santa Barbara, California.

2d question. Are you acquainted with the rubrics and signatures of Manuel Micheltorena, former governor of California, Manuel Jimeno, his secretary, and *that* the rubric of Pablo de la Guerra, former collector of customs at Monterey, California? If yea, state your means of knowledge thereof; and look at document marked "Document A," attached to the deposition of M. G. Vallejo, taken before Commissioner H. J. Thornton, and filed in this case August 6th, 1852, and state whether the rubric under the printed name of Micheltorena and the rubric under your name, both on the 1st page of the 5th leaf of said document—also at the names of said Micheltorena and Manuel Jimeno, subscribed to the same writing, as they appear on the two next succeeding pages—and state whether they are genuine rubrics and signatures.

Answer. I am acquainted with the rubrics and signatures of all the persons named; I have frequently seen said Micheltorena and Jimeno write their names and make their rubrics; and the other one referred to is that of myself.

The rubric of Micheltorena, on said 1st page, 5th leaf, I think is not genuine; and I do not think this is my rubric under my name; I think I never made it. As to the names of Micheltorena and Jimeno on the two following pages, I cannot swear to their genuineness. I feel very doubtful about them; I do not think they are theirs, though I cannot exactly say they are not.

PABLO DE LA GUERRA.

Subscribed and sworn to before me this 10th day of July, A. D. 1854.

PETER LOTT,
Commissioner, &c.

Filed in office July 10th, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Notice.

Case No. 251. Before the United States Board of Land Commissioners to ascertain and settle private land claims in California.

Petition of the heirs of Marcus West for land in Sonoma county.

To the claimants and their attorneys: Take notice, that on the 18th day of October, 1854, at the hour of 10 a. m., or as soon thereafter as the matter can be reached, before a proper commis-

sioner, at the court-room of the commissioners, in the city of San Francisco, shall proceed to take the depositions of J. J. Warner and J. W. Hudspeth, to be read in evidence on the trial of the above entitled cause.

Respectfully,
J. H. McKUNE,
U. S. Law Agent.

STATE OF CALIFORNIA,
Sonoma county, ss.

Before me, a notary public within and for said county, personally appeared James Prewitt, and being by me first duly sworn, deposes and says, that he served copies of the within upon M. G. Vallejo, adm'r of the estate of W. Marcos West, dec'd, also on Guadalupe Vasquez de West, widow, and Guadalupe West, and Adalaid West, and Marcos West, children of the said W. M. West, dec'd, by delivering copies of the within to them personally.

JAMES PREWITT.

Sworn to and subscribed before me, this 11th day of October, A. D. 1854.

Witness my hand and notarial seal.

[SEAL.] W. ROSS,
Notary Public.

THE HEIRS OF MARCOS WEST vs. THE UNITED STATES. } No.——. Before the U. S. Board of Land Commission.

To the above named claimants and to their attorneys, Halleck, Peachy, and Billings:

GENTLEMEN: Take notice that on the 28th day of October, 1854, at the hour of 10 o'clock a. m., or as soon thereafter as the matter can be reached before a proper commissioner, at the court-room of the commission, I shall proceed to take the depositions of J. M. Hudspeth and J. J. Warner, to be had in evidence on the trial of the above entitled case on the part of the United States.

J. H. McKUNE,
U. S. Law Agent.

J. H. McKune says, on oath, that he has received no notice of the substitution of any other attorney instead of Halleck, Peachy, and Billings, and that he served A. C. Peachy with the within notice by delivering him a true copy at the court-room of the commission, on the 26th day of October, 1854.

J. H. McKUNE,
U. S. Law Agent.

Subscribed and sworn to before me, this 26th day of October, 1854.

ALPHEUS FELCH,
Commissioner.

Deposition of J. J. Warner.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *October* 28, 1854.

This day came before Peter Lott, commissioner for taking to be used before the board of U. S. land commissioners, in said State, J. J. Warner, a witness on behalf of the United States, in case No. 251 on the docket of said board, wherein Guadalupe Vasquez de West et al. are claimants, and said witness being sworn, deposed as follows:

No counsel for claimants is present.

Questions by U. S. Law Agent.

1st question. What is your name, age, and residence?

Answer. My name is J. J. Warner; my age 46 years; my residence San Diego, California.

2d question. Are you acquainted with the handwriting of Manuel Micheltorena, former governor of California, and with the writing of Jimeno, his secretary? if yea, state your means of knowledge.

(2d questiono bjected to by claimants' counsel as leading and incompetent.)

Answer. During the residence of Governor Micheltorena in California, I frequently saw him and his secretary, Jimeno, write their names, and have seen numerous decrees and documents which I knew them to write.

3d question. Look at document marked "A. P. L." exhibited in this deposition, upon the first page thereof, and at the order thereon written, signed by Micheltorena, and state whether the order and the signature thereto appear to have been written by the same hand, and with the same pen.

Answer. I have looked upon the document and writing referred to in the question, and they were evidently written with the same pen, and apparently by the same person.

4th question. Is or is not said handwriting of Micheltorena?

It bears no resemblance to his handwriting; the signature has some resemblance to the signature of Micheltorena, but there are some apparent differences. The angles of the letters are too sharp or acute; a line across the top of the M, as well as the crossing of the "t," does not appear as much like those made by Micheltorena as they resemble similar lines in the body of the order, or decree. According to my recollection, Micheltorena, in crossing the "t" of his name, did not remove the pen from the paper after making the "t" before crossing the same, but keeps the pen upon the papers, and continued the line from the bottom of the "t" up to the cross-mark upon the line made in carrying the pen down, and then a short horizontal line from one side of the t. The rubric

below the signatures has so little resemblance to that usually made by Micheltorena, that I should doubt its having been made by him. There is but one coarse or heavy horizontal line, when in his genuine rubric there are two heavy lines.

5th question. Are you acquainted with the rubrics of said Micheltorena and Pablo de la Guerra, former collector of customs at Monterey? if yea, state your means of knowledge, and look at the rubric under their respective names near the top of the first page of the fifth leaf of said document, at the head of the document *at the head of the document* purporting to be a grant from said governor to Marcus West, of six square leagues of land, and say whether they are genuine.

Answer. I have seen both of the parties mentioned in the question make their respective rubrics; that of Don Pablo de la Guerra was somewhat intricate; and as the only office which he held under the Mexican government was connected with the customs, and having no business at any time with that department, I did not study the form used by him so much as that used by many other officers of government. I have doubts about the rubric under the name of Pablo de la Guerra having been made by him. That under the name of Micheltorena has no close resemblance to his genuine rubric; I should not think it was made by Micheltorena.

6th question. Look at the signatures of said Micheltorena and Jimeno, as they appear signed to said paper purporting to be a grant, and say whether they are genuine.

Answer. I have examined the signatures referred to in the preceding question, and should not think them genuine.

7th question. Look at the handwriting of the body of the last mentioned document, and say whose handwriting it appears to be an attempt to imitate.

Answer. It has some resemblance to the handwriting of Jimeno; I do not recognise the handwriting; it may have been attempted as an imitation of that of Jimeno.

8th question. Give your reasons for believing that it is not the handwriting of Jimeno.

Answer. In the second line of the first page there is a grammatical error in the use of the word naturaleza, which Jimeno would not have made. The letter "r" is most usually made in this document in the form used by Spanish writers, while Jimeno, according to my recollection, made the letter "r" in the English manner.

J. J. WARNER.

Subscribed and sworn to before me on this 28th day of October, A. D. 1854.

PETER LOTT,
Commissioner.

On this 21st day of November, 1854, the above witness, J. J. Warner, again appeared, and the United States law agent agreed with B. S. Brooks, esq., who appeared as attorney for the claimants, that said witness should be examined upon the foregoing examination in chief, nunc pro tunc, and that this deposition might be opened for that purpose; whereupon the following cross-examination was made before me, Peter Lott, the said commissioner for taking testimony, &c., at the chambers of said U. S. law agent, in the U. S. land commission buildings, at San Francisco aforesaid, and said witness being again sworn, testified as follows.

Cross-examined by Claimants' Counsel, B. S. Brooks, Esq.

Question 1st. State more particularly your means of knowledge of the handwriting of Micheltorena and Jimeno, and your opportunities of acquiring the same.

Answer. I have never held any office under either of those officers, but, as a resident of the county, I have had business with those officers, both in their official and individual character, in which I have seen them write.

Question 2d. Is it your opinion that the signature and the marginal order on the first page are written by the same hand as the rubrics under the printed heading to the grant, dated Oct. 14, 1844, and attached to the expediente filed in this case?

Answer. It is not my opinion that they were made by the same person.

Question 3d. Is the Miguel order on the first page, and the body of the grant or titles referred to in the preceding question, in the same handwriting?

Answer. There is a similarity in the writing of the two documents, but I do not recognise the writing, and cannot say with certainty that they were both written by the same person.

Question 4. Did you know Rafael Sanches, who was in the government employ; if so, what was his position, and are those documents referred to in question second in his handwriting?

Answer. I know Rafael Sanches; he was, when I knew him in Los Angeles, in the winter of 1842–'3, a writer in the military branch of the government of California; I am not sufficiently conversant with his handwriting, not having seen him write for more than two years, to say whether it is his or not; I never saw but little of his writing.

5th question. Did you know Victor Prudon, and was you acquainted with his handwriting? if yea, state your means of knowledge.

Answer. I knew said Prudon; I think he lived somewhere about Sonoma, and I do not know what his occupation was at the time I knew him in 1844. I have not been conversant with his handwriting since 1835, and could not now identify it.

6th question. Look at the two petitions in said document, "A. P. L.," and say whether you recognise them as said Prudon's handwriting.

Answer. I cannot say that I do.

7th question. Are you acquainted with the handwriting of Jacob P. Leese; if yea, how do you know it, and state whether the marginal report on the second petition in said document is in his hand?

Answer. I do *not* know his handwriting, by having often seen him write and received letters from him. The body of this report, I think, is not in his handwriting. The signature thereto, I believe to be his genuine signature.

8th question. Was Manuel Jimeno an educated man; and what was his position in life before he became secretary to the government?

Answer. So far I know he was a man of good education; I did not know his position in life before he became secretary.

J. J. WARNER.

Subscribed and sworn to before me, on this 21st day of November, A. D. 1854.

PETER LOTT,
Commissioner, &c.

Filed in office Oct. 30, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Jose de la Rosa.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *Nov.* 22, 1854.

This day, before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, José de la Rosa, a witness in behalf of the claimants, Guadalupe Vasquez de West et al., in case No. 251 on the docket of said board, and said witness being sworn, deposed in Spanish, which is interpreted by the interpreter to said board as follows.

The U. S. associate law agent is present.

Questions by Mr. Brooks for Claimants.

1st question. What is your name, age, and residence?

Answer. My name is José de la Rosa; my age 63 years; my residence in Sonoma, California.

2d question. Do you know the handwriting of Manuel Michelto-rena, Jacob P. Leese, and Manuel Jimeno? If yea, state your means of knowledge, and look at the document now shown to you, and marked "B. P. L.," as an exhibit to this deposition, and state whether their signatures, whenever they occur in said document, are genuine or not.

On this 21st day of November, 1854, the above witness, J. J. Warner, again appeared, and the United States law agent agreed with B. S. Brooks, esq., who appeared as attorney for the claimants, that said witness should be examined upon the foregoing examination in chief, nunc pro tunc, and that this deposition might be opened for that purpose; whereupon the following cross-examination was made before me, Peter Lott, the said commissioner for taking testimony, &c., at the chambers of said U. S. law agent, in the U. S. land commission buildings, at San Francisco aforesaid, and said witness being again sworn, testified as follows.

Cross-examined by Claimants' Counsel, B. S. Brooks, Esq.

Question 1st. State more particularly your means of knowledge of the handwriting of Micheltorena and Jimeno, and your opportunities of acquiring the same.

Answer. I have never held any office under either of those officers, but, as a resident of the county, I have had business with those officers, both in their official and individual character, in which I have seen them write.

Question 2d. Is it your opinion that the signature and the marginal order on the first page are written by the same hand as the rubrics under the printed heading to the grant, dated Oct. 14, 1844, and attached to the expediente filed in this case?

Answer. It is not my opinion that they were made by the same person.

Question 3d. Is the Miguel order on the first page, and the body of the grant or titles referred to in the preceding question, in the same handwriting?

Answer. There is a similarity in the writing of the two documents, but I do not recognise the writing, and cannot say with certainty that they were both written by the same person.

Question 4. Did you know Rafael Sanches, who was in the government employ; if so, what was his position, and are those documents referred to in question second in his handwriting?

Answer. I know Rafael Sanches; he was, when I knew him in Los Angeles, in the winter of 1842–'3, a writer in the military branch of the government of California; I am not sufficiently conversant with his handwriting, not having seen him write for more than two years, to say whether it is his or not; I never saw but little of his writing.

5th question. Did you know Victor Prudon, and was you acquainted with his handwriting? if yea, state your means of knowledge.

Answer. I knew said Prudon; I think he lived somewhere about Sonoma, and I do not know what his occupation was at the time I knew him in 1844. I have not been conversant with his handwriting since 1835, and could not now identify it.

6th question. Look at the two petitions in said document, "A. P. L.," and say whether you recognise them as said Prudon's handwriting.

Answer. I cannot say that I do.

7th question. Are you acquainted with the handwriting of Jacob P. Leese; if yea, how do you know it, and state whether the marginal report on the second petition in said document is in his hand?

Answer. I do *not* know his handwriting, by having often seen him write and received letters from him. The body of this report, I think, is not in his handwriting. The signature thereto, I believe to be his genuine signature.

8th question. Was Manuel Jimeno an educated man; and what was his position in life before he became secretary to the government?

Answer. So far I know he was a man of good education; I did not know his position in life before he became secretary.

J. J. WARNER.

Subscribed and sworn to before me, on this 21st day of November, A. D. 1854.

PETER LOTT,
Commissioner, &c.

Filed in office Oct. 30, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of Jose de la Rosa.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *Nov.* 22, 1854.

This day, before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, José de la Rosa, a witness in behalf of the claimants, Guadalupe Vasquez de West et al., in case No. 251 on the docket of said board, and said witness being sworn, deposed in Spanish, which is interpreted by the interpreter to said board as follows.

The U. S. associate law agent is present.

Questions by Mr. Brooks for Claimants.

1st question. What is your name, age, and residence?

Answer. My name is José de la Rosa; my age 63 years; my residence in Sonoma, California.

2d question. Do you know the handwriting of Manuel Micheltorena, Jacob P. Leese, and Manuel Jimeno? If yea, state your means of knowledge, and look at the document now shown to you, and marked "B. P. L.," as an exhibit to this deposition, and state whether their signatures, whenever they occur in said document, are genuine or not.

Answer. I do know the handwriting of the three persons named; I have frequently seen them all write, and the signatures and rubrics of said Leese and Jimeno are genuine in said document.

3d question. Had you any position or intimacy which gave you means of frequent intercourse with those persons?

Answer. I was intimate with all of them, because I was then printer to the government, and all the printing in this document was my own work, done by me for the government.

4th question. In whose handwriting is the body of the writing in the first and second petitions in said document?

Answer. They are both in the handwriting of Victor Prudon; I have seen him write, and am well acquainted with his handwriting.

5th question. In whose handwriting is the body of the marginal decree on the first page of said document, and how do you know it?

Answer. It is the handwriting of Manuel Micheltorena; I know it because I have seen him write.

6th question. Do you know the handwriting of Marcus West; if yea, what are your means of knowledge, and is his signature in said document genuine?

Answer. I have seen him sign his name in Monterey, and although I am not well acquainted with his handwriting generally, still I know his signature, and I believe his two signatures in this document to be both genuine.

7th question. In whose handwriting is the *f* informe on the 5th page of said document, and how do you know it?

Answer. I am not sure, but it looks like the handwriting of Damaso Rodriguez, an officer of the army, who is now dead; I saw him in 1841 twice, in Monterey; he lived at Sonoma in that year; he died in 1846, after the Americans took possession of California.

8th question. In whose handwriting is the instrument commencing on the 9th page of said document, and how do you know it?

Answer. I think it is in the handwriting of Rafael Sanchez; I have seen him write, and know his handwriting. It has been a long time since I saw him write, but I think this is his. He was employed by Micheltorena in 1844 in the office of the secretary.

9th question. Are said Micheltorena and Jimeno now living?

Answer. No; they are both dead, according to my best information.

10th question. What was Jimeno's education?

Answer. He was a student, intelligent in the laws, and understood Latin, and was esteemed a man of good education for one in his position.

11th question. In the instrument on the 9th page, is said to be a grammatical error of some word: state whether such an error *is* in the handwriting of said Rafael Sanchez would be remarkable; and

state whether there is any such error in the use of the word "naturalza" in the second line of said instrument.

Answer. There is no grammatical error in said instrument. The words "Mexicano por naturalza" mean "a Mexican by naturalization," and it is properly and grammatically expressed in the Spanish language.

12th question. Look attentively at the marginal decree on the first page of said document, and say whether in the form of the letters in the line across the top of "Wo" or in crossing the "t" you notice any difference between it and the genuine handwriting of said Manuel Micheltorena.

Answer. No, I see no such difference; it is evidently in Micheltorena's genuine handwriting; I have often seen him write, and know it well.

13th question. Look at the rubrics of said Micheltorena, under the printed heading on said 1st page, and under his name, under said marginal decree, and state whether you see any difference the two which would justify excite any doubt of the genuineness of either.

Answer. I see no such difference; the difference of the pen or the pulse, and the different times of making them, might naturally vary the appearance of the rubric, but these are both the genuine rubrics of Micheltorena. These rubrics, under the printed captions, were made in great numbers at a sitting, and the others, in the documents, were made at such times as they happened to be presented to the governor, and might naturally vary.

Cross-examined by U. S. Associate Law Agent.

1st question. Was the Mexican paper used in letter-writing different from that used in making grants?

Answer. All correspondence was written upon the same kind of paper; there was no other kind in use; the same as this in this document; sometimes the size was a little different.

2d question. Did you ever see Micheltorena sign his name to a grant?

Answer. Yes, I have seen him sign several.

3d question. Did you ever notice a difference between his signature to private letters and to public documents?

Answer. No, I never saw any difference; he always signed it much the same way.

4th question. Did he sign his name rapidly or slowly?

Answer. He wrote it very quickly.

Re-examined by Claimants' Counsel.

1st question. In whose handwriting are the words in the map, in said document, before referred to?

Answer. They are, I think, in the handwriting of Castaneda, a

captain of cavalry, who was drowned January 22, 1853, in the Gulf of Sonoma.

JOSE DE LA ROSA.

Subscribed and sworn to before me this 22d day of November, A. D. 1854.

PETER LOTT, *Com., &c.*

Filed in office Nov. 27, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of J. M. Hudspeth.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *Nov.* 30, 1854.

This day came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, James M. Hudspeth, a witness on behalf of the United States in case No. 251 on the docket of said board, wherein Guadalupe Vasquez de West et al. are claimants, and said witness being duly sworn, on his oath deposed as follows.

Mr. Brooks, claimants' counsel, is present.

Questions by the U. S. Law Agent.

1st question. What is your name, age, and residence?

Answer. My name is James M. Hudspeth; my age 43 years; my residence Sonoma county, California.

2d question. Were you acquainted with Marcus West, the person who claimed to be the original grantee of the land claimed in this case; if yea, did you ever converse with him respecting his right to the said land? And, if yea, state the time, place, and substance of said conversation.

Answer. I was acquainted with said Marcus West; I first knew him, I think, in 1845, and whilst I was surveying said land for him in October, 1847, I had a conversation with him in which he told me he had his title papers for two or two and a half leagues, but that he had no papers for the six additional leagues which he had petitioned for; that he had made and forwarded his petition, but that the man by whom he sent it had died somewhere about Santa Cruz, and that the petition was lost, and never reached the governor, and no grant had ever been issued upon it, nor received by him; that is about all I recollect substantially of our conversation upon that subject.

Cross-examined by Mr. Brooks for Claimants.

1st. Look at the document now shown to you, marked "A. P. L." exhibit to this deposition. and filed in this case August 6, 1852,

and state whether the map therein contained is a map of the same land which you surveyed in October, 1847.

Answer. When I surveyed said land Mr. West showed me no map; I surveyed it under his direction. I cannot now say how far this map may correspond with or differ from the map which I made of my survey; this map represents the land I surveyed in this respect, that it shows that the land embraced within the red line lies between the ranchos of Fitch on the northerly side, and that of Santa Rosa on the south and east, and touches the Russian river and lands of Cooper on the west, running into the range of hills called "Chinon" on the east; the Laguna de Santa Rosa also forms a part of the western boundary; so far as this map calls for those objects and bordering lands, *is* corresponds with the history of my survey.

2d question. Were the lands embraced within those boundaries at the time of your survey in the occupation of Marcos West? If yea, state all you know of the length of time he had so occupied them, and the character of said occupation.

Answer. Yes; Marcus West lived on the land with his family when I made the survey; I do not know how long he had been living there before that time; he had a farm-house there, corrals, and a farm enclosed in fence, and cultivated; he had also a grist-mill on the place; he had horses and cattle—some 4 or 5 hundred head of cattle, and some 50 horses and mares; he continued to occupy the place thus till the time of his death.

3d question. Did or did not said West live on said place when you first knew him?

Answer. I do not know whether he did or not; although I know Mr. West, I never was on said place till the time I made the survey.

4th question. What appeared to be the age of the buildings and improvements on said place when you first saw them?

Answer. I should think three or four years old.

5th question. Look again at the document before shown to you, "A. P. L.," and state whether you are acquainted with the handwriting of Marcus West? If yea, state your means of knowledge, and also state whether his signature, wherever it occurs in said document, is genuine.

Answer. I am not sufficiently acquainted with his handwriting to identify it; I do not recognise anything in this signature to enable me to testify of its genuineness.

6th question. Did said Marcus West tell you by whom he sent his petition, which he said was lost?

Answer. He told me the man's name at the time, but I do not now remember the name; I recollect he was a Spaniard.

7th question. Did not said West state to you that he did not know what became of said petition?

Answer. He stated to me that it was lost; those were his precise words.

8th question. Do you mean to be understood as testifying that Marcus West said to you that his said petition did not come to the governor's hands?

Answer. I so understood Mr. West. He did not tell me positively that they did not reach the governor, but I inferred it from what he told me.

9th question. What was it which said West told you, from which you drew this inference?

Answer. From his saying that the Spaniard by whom he sent them had died, and that the papers were lost.

Re-examined by U. S. Law Agent.

1st question. Did Marcus West at the time of your survey live on the original two leagues or on the six additional leagues, which he afterwards petioned for?

Answer. He lived on the original grant of two or two and a half leagues.

Cross-examined by Claimants' Counsel.

1st question. What were the boundaries of the tract mentioned in your last answer?

Answer. I can state them as Mr. West told them to me; I did not see the desiño; they were the Santa Rosa line on the south, the Laguna de Santa Rosa on the west, the creek (which we always called the "Marcus West creek") on which he lived on the north, and the hills (Chinon) on the east.

2d question. Was not his corral and his cattle on the north side of said creek?

Answer. I think there was a corral on that side; his cattle ran there, of course.

3d question. Look at the document now shown to you, marked "B. P. L.," exhibited in this deposition, purporting to be a traced copy of an espediente filed in this case May 31, 1852, and state whether the plat of land described in the map, on the 9th leaf of traced paper therein, is not identical with the plat described in the map before exhibited to you in this deposition, and whether the said maps are not alike; or if they differ, state wherein.

Answer. In the main the maps are alike, and represent the same tract of land; they may differ in minor particulars. I think one was copied from the other.

J. M. HUDSPETH.

Subscribed and sworn to before me on this 30th day of November, A. D. 1854.

PETER LOTT,
Commissioner.

Filed in office Dec. 1, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Notice of Appearance.

BOARD OF LAND COMMISSIONERS OF THE UNITED STATES.

GUADALUPE WEST et. al.
vs.
THE UNITED STATES.

You will please to note my appearance in this case for the claimants in the place of, and stead of, Halleck, Peachy and Billings, and Park, who have withdrawn from this case, number 251.

Dated San Francisco, October 31, 1854.

Yours, &c.,
BENJ. S. BROOKS,
Att'y for Claimant.

To GEORGE FISHER, Esq.,
Secretary U. S. Com'rs.

Filed in office October 31, 1854.
(Signed) GEO. FISHER,
Sec'y.

Deposition of Victor Prudon.

UNITED STATES OF AMERICA,
State of California.

SAN FRANCISCO, *Dec.* 15*th*, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Victor Prudon, a witness on behalf of the claimant, Guadalupe Vasquez, in case No. 251 on the docket of said board, wherein said witness, being sworn, testified as follows.

The U. S. law agent is present.

Questions by Mr. Brooks, for Claimant.

1st question. What is your name, age, and residence?

Answer. My name is Victor Prudon; my age 44 years; my residence San Francisco, California.

2d question. Look at the document now shown to you marked "C. P. L.," as an exhibit to this deposition, and heretofore filed in the case, and state whether you are acquainted with the handwriting of Manuel Micheltorena, Pablo de la Guerra, Marcos West, Jacob P. Lees, and Manuel Jimeno; and if yea, state your means of knowledge, and also whether their respective signatures, wherever they occur in said document, are genuine.

Answer. I am acquainted with the signatures of all the persons named, except Marcos West; I have seen all the other four persons write.

On the first page the rubrics of de la Guerra and Micheltorena,

and the signature *and the signature* of the latter; I believe Lees' signature on the 5th page is genuine. The rubrics of de la Guerra and Micheltorena, under the printed heading on the ninth page, look different from their other rubrics, and I do not think them genuine.

Micheltorena's signature on the 10th page I believe to be genuine. The signature of Jimeno on the 11th page looks different from my recollection of his signature, but I cannot testify as to its genuineness.

3d question. Do you know in whose handwriting the different papers forming this document are? If yea, state who those persons were, and where they are now.

Answer. The body of the document on the 1st, 2d, and 3d pages, and also on the 5th, 6th, and 7th pages, were written by me on the days on which they bear date. One Castanada, a captain, who was sometimes employed to write in the governor's office, I think wrote the marginal decree on the first page, which is signed by Micheltorena. The marginal order on the fifth page, which is signed by Leese, I believe, I do not recognise; I am sure it is not Leese's. The body of the document on the 9th, 10th, and 11th pages I believe to have been written by said Castanada; he is now dead.

4th question. Was it necessary that the copy of the grant which was presented with the espediente should be written upon stamped paper?

Answer. It was necessary that it should be written on stamped paper, or the explanation had to be made of the want of stamped paper in the grant given to the interested party, but it was not necessary that the copy to be preserved in the archives should be upon stamped paper.

5th question. Where did Castanada reside in 1844?

Answer. He was most of the time in Monterey.

6th question. Look at the map, in the document already shown to you, and state whether you recognise the handwriting on it?

Answer. I do not recognise it; it is formed in the manner of an English writer; it is not Castanada's.

7th question. State what you know of the occupation of the premises described in said document, and whether their title and occupancy of the land were ever questioned prior to the conquest by the Americans?

Answer. I know that when I went to settle in Sonoma in 1841, Marcos West and his family were living on the place; I do not know how long they had been there then; he continued in that occupancy all the time till now; I never knew anything about his title being questioned, nor his occupancy being questioned at any before or after the conquest.

Cross-examined by U. S. Law Agent.

1st question. When did you last see Micheltorena write?

Answer. In Monterey, some time in 1844.

2d question. Did you ever know or see Micheltorena's signature to an order or decree written in so fine a hand as *as* this, and did he not usually write a quick, bold hand?

Answer. He generally wrote in a bold hand; but I believe I have in my possession documents, orders, and other official documents, which I know to have been signed by him, and his signatures to them vary very much. I have never examined particularly to ascertain if any of them was as fine as this, and cannot state; but I believe this to be his genuine signature.

3d question. Is not the handwriting of the grant on the 9th, 10th, and 11th pages, an attempt to imitate the handwriting of Jimeno?

Answer. I do not think it is, for it is in a very different form of writing. It looks like a freely written hand, and I think it is Castanada's usual hand.

4th question. Look at the J in Jimeno's name, and say whether it is not written shorter than he usually wrote it?

Answer. I have not noticed this *particularity peculiarly*, but I have not observed any great uniformity in Jimeno's signature. I have seen his signature with a much longer J, but I have already said this signature looks different from Jimeno's, and that I cannot testify as to its genuineness.

5th question. Do you believe it possible to counterfeit Micheltorena's handwriting so that it would appear as near like it as those signatures appearing in said exhibit?

Answer. That is a difficult question to answer when we consider that there are persons who can counterfeit any names, and can do it so well that we can hardly detect them; and although I have stated, and do believe these to be Micheltorena's genuine signatures, yet I must say it is possible, in my opinion, to counterfeit his name successfully, as well as the name of other persons.

6th question. Would not the face of the forgery of the rubrics of Micheltorena and Jimeno at the head of the document lead you to doubt the genuineness of Micheltorena's signature at the end of said document?

Answer. If I knew the said rubrics to be forged, the fact would lead me to examine more particularly the signature at the end of the document; but I would not consider it a necessary consequence, that if the rubrics were false the said signature must be also; nor a vice versa, though, as to the matter of fact in this case, if the rubrics were false, to my knowledge, it would not shake my belief that this is Micheltorena's genuine signature. And further, that if the final signature and rubric were so well forged as to deceive me in Micheltorena's hand, the rubric at the head might have also been made uniformly good.

The falsity of the rubric at the heading would only prove the genuineness of the rubric at the end, the first being so badly made, and the latter so well made.

Re-examined by Claimants' Counsel.

1st question. During the existence of the former government was stamped paper sold by government agents, upon which the rubrics were made by persons, or those whose names were printed above them?

Answer. I have heard that it has been done sometimes when there was a great quantity of paper to sign, and that it was done without any fraudulent intention, only to expedite the preparation of the paper of official use.

2d question. State the different forms in which Jimeno signed his name, so far as you recollect them.

Answer. Sometimes the capital M in Manuel is plain, and sometimes it has more of a flourish on the first line of the letter. The capital J in Jimeno is sometimes a long one, going far below the line of the writing, and sometimes it is curled up on a line with the writing.

The foregoing re-examination was made by claimants' counsel after the law agent left the room, under the impression that his cross-examination would close the deposition.

The deposition was laid aside by me at the close of the day, expecting the parties to return and conclude it, but neither the witness, the counsel for the claimant, Mr. Brooks, nor the law agent had called *up* the matter up again, and I now file the deposition in unfinished form.

PETER LOTT.

I consent that the deposition may be filed and considered in evidence.

J. H. McKUNE,
U. S. Law Agent.

Filed in office March 30, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 11, p. 675.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

Expediente.

Promovido por el C'no Marcos West, en solicitud del terreno que espresa.

1840.

[213.]

[2 S. D. K.]

Sello Tercero—Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto

de Monterey en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno

ANTONIO MA. OSIO.

ALVARADO.

B. P. L. Exhibit to Deposition of Jas. M. Hudspeth, Nov. 30, 1854.

[SELLO.]

S'OR PREFECTO: Marcos West natural de la ciudad de lindres en inglaterra ante V. S. como mas halla lugar en derecho me presente y dice. Que el adjunto diseño que he pedido no me queto y ahora suplico V. S. que me creta favorablement el nuevo sitio que acompaña estos documentos qe. por el Señor D. Guadalupe Vallejo es conocido valdio portanto a V. S. suplica humildem'te qe. me concede este peticion favor qe. espero de la conocido bondad de V. E.

Monterey, 15 de Octubre, de 1840.

Por ansencia del interesado firmo.

JORGE ALLEN.

SAN JUAN B'TA, 15 *de Octubre, de* 1840.

Pase esta instancia al s'or comand'te g'ral para que informe sobre el contenido que sea vuelva para proveer.

JOSÉ F. CASTRO.

[3 S. D. K.]

SONOMA, *Oct'e* 20, *de* 1840.

S'OR PREFECTO: El parage que solicita Marcos West es baldio y no pertenece a propriedad particular alg'ro es de regadio y temporal, &c., no esta comprendido en las veinte leguas limitrofes ni en las 10 litorales que las leyes prohiben pa. la colonizacion. Es cuanto puede informar respecto del terreno que V. S. se serve peder en su decreto de 13 del corriente.

MNO. G. VALLEJO.

[4 S. D. K.]

Ex'mo S'or Gobernador:

El interesado en esta solicitud obtiene los requisitos legales para ser atendido y el terreno que pretende puede sule concedido, dejandolo la prefectura al conocim'to de V. E.

Monterey, 30 de Oc'bre, de 1840.

JOSÉ F. CASTRO.

[5 S. D. K.]

MONTEREY, 2 *de Noviembre, de* 1840.

Vista la peticion con que da principio este espediente el informe del comand'te militar de la frontera del norte y el de el prefecto del primer distrito con todo lo demas que se turo presente y ver convino de conformidad con las leyes y reglamentos de la materia declaro a Marcos West dueño en propriedad del parage que se demuestra

señalado en el diseño que corre en este espediente cuyo terreno se haya situado en los linderos llamados de los Carrillos la sierra de Chisino y dos arroyos que demuestra el mencionado diseño siendo la estencion del terreno un sitio y media de ganado mayor comensando desde los linderos y a espresados de los Carrillos hasta el arroyo que esta immediàto al presidio Viejo. Tomese razon del despacho que estiende al interesado a quien se le entragara para su resguardo dirijiendose este espediente a la ex'ma junta departamental para su aprobacion. El S'or Dn. Manuel Jimeno casarin primeo vocal de la ex'ma junta del departamento de las Californias asi lo firmo y decreto de que doy fè.

JIMENO.

JOSE Z. FERNANDEZ, *Scrio. Into.*

[6 S. D. K.]

[*Here follows map—original, page* 39.]

[7 S. D. K.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto el ciudadano Marcos West, ha pretendido para su beneficio personal y el de su familia el terreno que se halla situado en los linderos llamados de los Carrillos la sierra de Chicino, y por las margenes de los arroyos segun se demuestra en el diseño que se halla en el esped'te practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferridas a nombre de la nacion Mejicano, he venido en concederle el terreno mencionado declarandole la propriedad de el por las presentes letras sugetandose a la aprobacion de la ex'ma junta departamental y a las condiciones siguientes:

[8 S. D. K.]

1a. Podra cercarlo sin prejudicar las travecias caminos y servidumbres; lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode, puo dentro de un año fabricara casa y estara habitada.

2a. Solicitara del juez respectivo que le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las majoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de un sitio y medio de ganado mayor poco mas o menos segun esplica el diseño que agregado con el exped'te respectivo. El juez que diere la posecion lo

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hara medir conforme a ordenanza que dando el sobrante que resulte a la nacion pa. los usos convenientes.

4a. Si contraveniero a estas condiciones perdera su direcho al terreno y sua denunciable por otro.

Jurisdiction de Sonoma.—Año de 1840.

Espediente.

Promovido por el C'n Marcos West, en solicitud del terreno que espresa.

1840.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the ten preceding and hereunto annexed pages of tracing paper, numbered from one to ten inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal (not having a seal of office,) at the city of San Francisco, Cal'a, this 14th day of April, 1852. [SEAL.]

SAM'L D. KING,
Surveyor General Cal'a.

Filed in office May 31st, 1852.

GEO. FISHER, *Sec'y.*

"B."—*Translation of Espediente.*

Stamp Third—Two Reals.

Provisionally authorized by the maritime custom-house of Monterey, in the department of the Californias, for the years one thousand eight hundred forty and one thousand eight hundred forty-one.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

[Maritime Custom-house of Monterey.]

SENOR PREFECT: I, Marco West, native of the city of London, in England, before your honor, as I best may in law, present myself and say, that I do not like the annexed map which I have asked for, and I now ask your honor to decree to me, favorably, the new place which accompanies these documents, which is known by D. Guadalupe Vallejo to be vacant.

Wherefore, I humbly pray your honor to grant me this request, a favor which I expect from your known goodness.

Monterey, Oct. 5, 1840.

In the absence of the party interested, signed by
(Signed) GEORGE ALLEN.

(*In the margin.*)

SAN JUAN BAUTISTA, *Oct.* 15, 1840.

Pass this petition to the commanding general, to report upon its contents; and this being done, let him return it, that I may decide.
(Signed) JOSÉ F. CASTRO.

SONOMA, *Oct. 20th*, 1840.

SENOR PREFECT: The place which Marcus West solicits is vacant, and does not pertain to any private ownership; it is *orrigable* and dependent *in* the seasons, &c.; it is not included in the twenty leagues from the boundary, nor in the ten from the seashore, which the law prohibits being colonized.

This is all I can report relative to the land which your honor was pleased to ask for, in a decree of the 13th instant.
(Signed) MARIANO G. VALLEJO.

To his Excellency the Governor:

The person interested in this petition possesses the legal qualifications to be attended to, and the land petitioned for may be granted this *pacficture* brought it to your excellency's judgment.

Monterey, Oct. 30, 1840.
(Signed) JOSÉ F. CASTRO.

MONTEREY, *Nov. 2d*, 1840.

Having seen the petition with which this espediente commences, the report of the military commandant of the northern frontier, and that of the prefect of the first district, with all other matter which was borne in mind and proper to be considered in conformity with the laws and regulations on the matter, I declare Marcus West owner in fee of the place shown, marked out on the map, which goes with this espediente, which land is situated between the boundaries called those of the Carrillas, the sierra of Chiseno, and two brooks shown by the said map, the extent of the land being one and a half square leagues, commencing from the aforementioned boundaries, to the stream which is near the Presidio Viejo.

Let note be made of the title which is issued to the person interested, to whom it will be delivered for his security, submitting this espediente to the most excellent departmental junta, for its approval.

Señor Don Manuel Jimeno Casarin, senior member of the most excellent junta of the department of the Californias, thus signed and decreed, to which I certify.

(Signed) JIMENO.

(Signed) JOSE Z. FERNANDEZ,
Secretary ad interim.

E. C.
R. P.

Filed in office May 31, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Doc. A, attached to the Depo. of M. G. Vallejo, taken before Com'r H. J. Thornton.

Sello Cuatro—Dos Reales.

Habilitado provisionalmente para la aduana maritima del puerto de Monterey, en el departamento de las Californias para los años de mil ochocientos cuarenta y cuatro.

MICHELTORENA. PABLO DE LA GUERRA.

A. P. L. Exhibit to Depo. of J. J. Warner, Oct. 28th, 1854.

[SELLO.]

E. S. Gobernador:

Marcos West, oriundo de la gran Britaña, naturalizado Mejicano, de oficio carpentero, casado con Mejicana, y radicado en esta frontera del norte, ante V. E. con el mas profundo respeto me presento y espongo:

Que hace cuatro años concedio el gob'no departamental el terreno conocido con el nombre de S'n Miguel, limitado al N. N. E. con la Sierra de Chinan, al S. O. con la Laguna grande Sta. Rosa, y lindero de D. Juan Cooper, al N. O. con el Arroyo Seco lindero del Capt. Feth, y al S. E. con el lindero de los Carrillos, cuyo terreno comprende una estencion de seis sitios de ganado mayor poco mas o menos y habiendose servido V. E. indicarme varias milidades en el titulo que le presente pa. que tuviese a bien mandas se me revalidose, suplico a V. E. se sirva admitirme esta nueva instancia pa. qe. en virtud de ella y atendiendo al derecho que me asiste para solicitarlo se digne mandar seme otorgue el titulo legal de concesion del referido parage en toda forma pa. que pueda cumplir con los demas requisitos que previene la ley y asegurar pa. mi y mi herederos la propriedad del terreno mencionado sin que se pueda en ningun tiempo molestar ni a mi ni a ellos en el goce a sufructo de el.

P. S. A. V. mega tenga la benignidad de atender a esta mi suplica, y si lo tiene a bien se serva mandur decretar como pido en lo que recibire merced y justicia.

Jura lo necesario, &c.

Sonoma, Sep'bre 19 de 1844.

MARCOS WEST.

MONTEREY, *Oct'e* 13 *de* 1844.

Al s'or s'rio del despacho pa. qe. estiendo el titulo en los terminos qe. solicita el interesado.

MICHELT'A.

Sr. Alcalde 1o de Sonoma:

Marcus West, vecino de esta jurisd'on, ante V. comparece y espone: Que teniendo q'e elevar à manos del E. S. Gobernador la adjunta instancia a V. suplico, se sirva imponerse de su contenido, y en vista de la justicia q'e asiste al esponente, tenga a bien informar que el parage q'e solicita es de su propriedad, p'r haberle sido concedido p'r el gbno. departamental, hace mas de 4 años desde cuyo tiempo el suplicante lo ha ocupado, labrado, cultivado y apacentado en el sus ganados y el motivo de solicitarlo ahora nuevam'te es el de corregir varios defectos que contiene el titulo que le mando otorgar el gbno. de aquella f'ha. P. T. A. V. suplica se sirva informar como pide si lo tiene pr. justo pues siendo requisito preciso se aporrara al espon'te el tener que espercor el tiempo considerable que sina menester p'a que su adjunta instancia veniese a informe desde Monterey a ese juzgado del cargo de V. y regresara a aquella capital lo q'e ocasionara al suplicante grandes juetos y grave perjincio.

Sirvase V. dispensarle el uso del papel comun p'r no haberlo en esta frontera del sello que corresponde.

Jura lo necesario, &c.

Sonoma, S'bre 20, de 1844.

MARCOS WEST.

Juzgado de 1o Nominacion.

SONOMA, 20 *de S'bre, de* 1844.

El terreno que se solicita es valdio no pertenece à p'blo, corporacion, ni particular alguno solo el interesado lo tiene ocupado con sus bienes ase cuatro años no se sabe la estencion del terreno que habra valdio, sin embargo puede consedersele al interesado, sujetandose a los linderos de los colindantes.

JACOB P. LEESE.

Sello Primero—Ocho Pesos.

Habilitado provisionalm'te por la aduana maritima del puerto de Monterey, en el departamento de los Californias, para los años de mil ochocientos cuarenta cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

NCL 0.7A — Doc. 1.8.

Doc. A—Continued.

Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayud'te General de la Plana Mayor del mismo, Gobernador, Comandante General é Inspector de ambos Californias.

Por cuanto D. Marcos West, Mejicano por naturaliza y casado con Mejicano ha solicitado de este gobierno la revalidacion del titulo que se le estendio en dos de Noviembre de mil ochocientos cuarenta al consedersele el terreno conocido con el nombre de San Miguel en la frontera del norte del departamento en estencion de seis sitios de ganado mayor poco mas o menos que tiene por linderos la Sierra de Chinan, la Laguna Grande de Santa Rosa, el lindero de D. Juan Cooper el Arroyo Seco, lindero del Capitan Feth, y el de los Carrollos; teniendo en consideracion las razones que espone el interesado y en vista del informe del alcalde primero de Sonoma practicadas previamente las demas diligencias concernientes, segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la nacion Mejicana he venido en revalidarle el dicho titulo y consederle el terreno mencionado dentro de los linderos que se espresan sujetandose a las condiciones siguientes:

1a. Podra cercarlo sin perjudicar las travesias, caminos y servidumbres, lo disfrutara libre y exclusivam'te destinandolo al uso ó cultivo que mas le acomode, pero dentro de uno año fabricara casa y estara habitada.

2a. Solicitará del juez respectivo le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de seis sitios de ganado mayor poco mas o menos segun esplica el diseño que corre en el espediente. El juez que le diere la posecion lo hara medir conforme a ordenanza que dando el sobrante que resulte à la nacion para los usos convenientes.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro que corresponde y se entregal al interesado para su resguardo y demas fines.

Dado en Monterey a catorce de Octubre, de mil ochocientos cuarenta y cuatro.

MAN'L MICHELT'A.

Queda tomado razon de este superior despacho en el libro respectivo f'ha ut supra.

MAN'L JIMENO.

[*Here follows map—original, page* 48.]

Filed in office Aug. 6th, 1852.

GEO. FISHER, *Sec'y.*

"D."—*Translation of Petition for new title, &c.*

Stamp Fourth—Two Reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years one thousand eight hundred and forty-four, and one thousand eight hundred and forty-five.

(Signed) PABLO DE LA GUERRA.

(Signed) MICHELTORENA.

[Maritime Custom-house of Monterey.]

Marcos West, born in Great Britain, a Mexican by naturalization, carpenter by trade, married to a Mexican female, and resident on this northern frontier, before your excellency appears, with the most profound respect and representation, *marks*: That four years ago the departmental government granted me the land known by the name of San Miguel, bounded on the north-northeast by the sierra of Chinan, on the southwest by the "Laguna Grande de Santa Rosa" and the rancho of Don Juan Cooper, on the northwest by the Arroyo Seco and the rancho of Captain Fitch, and on the southeast by the rancho of the Carrillos; which land contains an extent of six sitios de ganado mayor, little more or less; and as your excellency has been pleased to point out various informalities in the title which I presented, in order that your excellency might be pleased to renew it, I now beg your excellency to be pleased to receive this new petition, in order that by virtue of it, and in consideration of the right which I have to ask it, you may be pleased to direct to be given to me the legal title of the aforesaid place in due form, so as to be in conformity with all the requisites of the law, and to secure to me and my heirs the ownership of the aforementioned land; without that, in every future time any one can molest either me or them, in the use and enjoyment of it.

Wherefore I pray your excellency to have the goodness to attend to this my petition; and should you be so pleased to order it decreed, as I ask, by which I should receive justice and grace.

I make the necessary oath, &c.

Sonoma, Sept. 10, 1844.

(Signed) MARCUS WEST.

(*In the margin.*)

MONTEREY, *Oct. 13th*, 1844.

Referred to the Secretary of State to make out the title in the terms asked for by the party interested.

(Signed) MICHELTORENA.

To the 1st alcalde of Sonoma: Marcus West, resident of this jurisdiction, before your honor *and* represents, that having to transmit to the hands of his excellency the governor the adjoined peti-

2835-

tion, he begs you to be so good as to examine the contents, and in view of the just rights of the petitioner, be so good as to report that the place which he asks for is his property, and that it was granted to him more than four years ago, by the departmental government, since which time the petitioner has occupied it, worked on it, and the motive of now asking for it *amend* is to amend heinous defects of the title given me by the government of that date. Wherefore he prays your honor to be pleased to report according to his request if you deem it just, since it is very necessary in order to save the petitioner from having to wait the considerable time which would be necessary for the annexed petition to court, to be reported on from Monterey to this court, in charge of your honor, and to go back again to that capital, which would occasion the petitioner great expenses and serious prejudice.

May your honor be pleased to pardon the use of common paper, as there is none of the proper stamp in this frontier.

I make the necessary oath, &c.

Sonoma, September 20th, 1844.

(Signed) MARCOS WEST.

(*In the margin.*)

Court of 1st Nomination.

SONOMA, *Oct.* 20*th*, 1844.

The land asked for is vacant; does not belong to any pueblo, corporation, or individual, but only to the petitioner, who has occupied it for *for* years, with his property, although the extent of land which is vacant is not known; but without doubt the grant can be made to the party interested, subject to the boundaries of the colindantes.

(Signed) JACOB P. LEESE.

Stamp First—Eight Dollars.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years one thousand eight hundred and forty-four and one thousand eight hundred and forty-five.

(Signed) MICHELTORENA,
(Signed) PABLO DE LA GUERRA.

Manuel Micheltorena, General of Brigade of the Mexican Army, Adjutant General of the Staff of the same, Governor, Commandant General, and Inspector of both Californias.

Whereas Don Marcos West, a Mexican by naturalization, and married to a Mexican woman, has asked of this Government the revalidation of the title which was made to him the 2d of November, 1840, granting to him the land known by the name of San Miguel,

in the frontier of the north of this department, in extent six "sitios de ganado mayor," (six leagues, a little more or less,) which has for its boundaries the "Sierra de Chinan, la Laguna Grande de Santa Rosa, the boundary of Don Juan Cooper, the Arroyo Seco, boundary of Captain Fitch, and that of the Carrillos, taken into consideration the reasons set forth by the petitioner, and seeing the report of first alcalde of Sonoma, the other measures concerning it having been previously made, as required by the laws and regulations, using the faculties conferred on me in the name of the Mexican nation, I have revalidated said title, and granted to him the aforesaid land within the expressed limits, and subject to the following conditions:

1st. He may enclose it without prejudice to the cross-roads, roads, and servitudes, enjoy it freely and exclusively, making such use or cultivation of it as he may see fit, but within one year he will build a house, and it shall be inhabited.

2d. He will ask the respective magistrate to give him judicial possession in virtue of this despatch, for which purpose the boundaries will be marked, and in their limits he will place beside the monuments some fruit *thus* or wild ones of some utility.

3d. The aforesaid land is six sitios de ganado mayor in extent, little more or less, as is shown with the map which goes with the espediente.

The magistrate who may give the possession will have it measured according to ordinance, leaving the surplus, which results to the nation for its convenient uses.

In consequence, I order that, this title being held as firm and valid, note be taken of it in the corresponding book, and that it be given to the party interested for his security and other purposes.

Given in Monterey the 14th of October, 1844.

(Signed) MANUEL MICHELTORENA.

Note is taken of this superior despatch in the corresponding book, date as above.

(Signed) MANUEL JIMENO.

Filed in office May 31st, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Certified copies of W. Mark West's will and Probate Court orders of Sonoma county.

Sello Sereno—Dos Reales.

Habiltado por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, parce los años de mil ochocientos treinta y seis y mil ocho Geeteenez y sietare.

ANGEL RAMIREZ.

Volga para los años 1839 y 1840.

ALVARADO. ANTONIO M. OSIO.

[Ad'a Maritima de Monterey, L. S.]

I, William Mark West, a subject or citizen of the Mexican republic, being about to depart from my place of residence, in Monterey, in the department of Upper California, hereby and by these presents bequeath unto my wife, Guadalupe West, all and singular, all and every my personal and real estate, situate and being the said department of the republic aforesaid, to wit, my dwelling-house, and lot of land on which it stands, and the household furniture in said house, and all other personal and real property belonging to me in said department, of any and every kind whatsoever, except the debts due or owing, or to become due and owing unto me in said department, in consequence of any transactions or business done by me, or my agents, previous to this date.

This will shall take effect as a power of attorney to empower my said wife to all, as my attorney and trustee in my absence, and my executor and heir-at-law in case of my death. It is, however, my will, that in case of my decease, all my said property shall descend to my child and son, Pio.

In witness whereof, I, in sound mind, have hereunto affixed my sign manual this 22d day of April, in the year 1840.

WM. MARCO WEST.

In presence of—
THOMAS J. DUREESAN,
JEREMIAH JONES.

Sello Serceo—Dos Reales.

Habiltado por la administracion de la aduana de puerto de Monterey, de la Alta California, parce los años de mil ochocientos los treinte y seis y mil ochocientos treinte y seete.

ANGEL RAMIREZ.

GUTEENEZ.

Volga por los años de 1839 and 1840.

ANTONIO MA. PICO.

ALVARADO.

[L. S.]

Filed for record October 19th, 1850, at 2¼ o'clock p. m.

WM. M. BOGGS, *Recorder.*
By R. B. BUTTER, *Deputy.*

Filed for probate October 10th, 1851.

J. HENALLEY,
Clerk Probate Court.

STATE OF CALIFORNIA,
County of Sonoma.

I hereby certify the foregoing transcript to be a correct copy (pages 1, 2) of the will of William Mark West, filed for probate in

the probate court in Sonoma county, and recorded also in book F, page 1, of Sonoma county records.

Witness my hand and official seal at the city of Sonoma, this 28th day of July, A. D. 1852.

[SEAL.] JOHN HENELLEY,
Clerk and Recorder of Sonoma county.
By JOHN A. BREEWSTY,
Deputy.

In the matter of the will of Wm. Mark West, dec'd.

The court orders that upon reading of the proofs of the will of W. M. West, that James G. Spraft, esq., be appointed to represent Marcio Pio and Adelaida Madilda, infant heirs and legatees under the will of W. M. West, dec'd, and also appoint R. A. Malpin, esq., to represent Maria Ignacio, Juan Lorenzo, Guillermo S. José Carlos, Maria Greelua, and Maria Cornelia, the other minor heirs of William Mark West.

Made October 29th, A. D. 1851.

In the matter of the will of Wm. Mark West, dec'd.

Now, on this day, upon the will of Wm. Mark West being brought up for probate, comes R. A. Macepin, att'y and guardian ad litem for four infant heirs of Wm. Mark West, and files her objection to the approval of the said will; also comes J. G. Spratt, att'y and guardian for Marcees Pio and Adelada, infant heirs of said West.

The court, after hearing the evidence and agreement of the att'ys, decrees, that the instrument of writing filed as the will of Wm. Mark West, dec'd, for probate, is not proven or allowed as the will of the said William Mark West, dec'd.

Made October 30th, A. D. 1851.

STATE OF CALIFORNIA,
County of Sonoma.

I hereby certify the foregoing to be a true copy of two orders in the ouster of the will of Wm. Mark West, deceased, made at the October term of the probate court of Sonoma county, A. D. 1851, as appears upon the *the* minutes of said court.

Witness my hand and private seal, (having no seal of court provided,) at office, in the city of Sonoma, this 28th of July, A. D. 1852.

[L. S.] JOHN HENDLEY,
Clerk of Sonoma county, and ex-officio
Clerk of the Probate Court.
By JOHN A. BREWSTER, *Deputy.*

To the Probate Court, in and for Sonoma county, State of California.

Mrs. Guadalupe West, a resident of said county, states, that she is the widow of Wm. Marco West, deceased; that said William departed this life A. D. 1849, and, as she verily believes, intestate, and was, at the time of his death, a resident of the county of Sonoma, aforesaid. His estate has never been administered upon, and she petitions this honorable court to grant letters of administration thereon to *to* her, to the end that it may be disposed of according to law.

GUADALUPE WEST.
By her att'ys, BOGGS & MACEPIN.

November 1st, 1851.

Filed November 1st, 1851.

J. HENDLEY,
Clerk of Probate Court.

In the matter of the estate of William Mark West.

Proof was taken as to the publication of notice of application of Guadalupe West for letters of administration upon said estate, and thereon the court orders, that letters of administration upon the estate of William Mark West, dec'd, be granted to Guadalupe West.

STATE OF CALIFORNIA,
County of Sonoma.

I hereby certify the foregoing to be a true copy of the petition for letters of administration, filed in the probate court of Sonoma county by Mrs. Guadalupe West, Nov. 1st, 1851, and the order of said court granting the same, made by said court Nov. 18th, A. D. 1851, as appears by record in this office.

Witness my hand and private seal, (having no seal of court provided,) at the office, in the city of Sonoma, this 29th day of July, A. D. 1852.

[L. S.] JOHN HENDLEY.
Clerk of Sonoma county, and ex-officio Clerk of the Probate Court.
By JOHN A. BREWSTER, *Deputy.*

Filed in office Oct. 20, 1854.

GEO. FISHER, *Sec'y.*

Opinion of the Board.

HEIRS OF M. WEST, dec'd,
vs.
THE UNITED STATES. } Number 251.

For a place called San Miguel, in the county of Sonoma, containing six square leagues.

In this case the petitioners have presented and offered in evidence

a traced copy of an espediente, asking for a grant for a league and a half of land, supposed to be a part of the place above named, and also a traced copy from the archives of a grant issued in pursuance of said espediente by M. Jimeno, then acting governor, the copy of the espediente bearing date the 30th day of October, and that of the grant the 2d day of November, 1840, for one and a half league of land; also a document that purports to be an original espediente—an additional grant for the piece of land above named, and also what purports to be the usual formal preliminary proceedings pending the issue of a grant, and also what purports to be a grant from Governor Micheltorena for the place by its name, dated the 14th day of October, 1844, and calling for six leagues of land.

The second espediente alleges that there were numerous errors in the first grant, and asks the issue of the second for the purpose of correcting said errors in the first grant, and does not show in what the errors consisted.

There is no proof of the existence of the first alleged grant, except the fact that a copy of it appears on file in the archives of State, and in the absence of any proof of the authority of the grant, we do not feel disposed to give it any weight as evidence of title in the alleged grantee. The genuineness of the supposed grant of the date of 1844 of Micheltorena is called in question by the land agent, which we are called upon to determine from the documents in the call.

M. G. Vallejo, a witness in the case, on inspection of the documents, says he is well acquainted with the handwriting of all the persons whose names appear on the documents, and says that they are all genuine, and that the whole document is original and genuine.

José de la Rosa, also a witness on the part of the petitioners, swears that the signatures and rubrics of Micheltorena, Jacob P. Leese, and Jimeno are all genuine; says that the handwriting in the body of the first and second petition are in the handwriting of Victor Prudon, and the body of the marginal decree on the first page is in the handwriting of Micheltorena; thinks that the handwriting on the body of the 9th page is that of Rafael Sanchez.

Victor Prudon, also a witness for the petitioners, states that the signatures and rubrics of Micheltorena and Guerra on the first page are genuine, and the signature of Jacob P. Leese and Micheltorena are also genuine. But the rubrics of Micheltorena and Guerra under the heading on the 9th page look different from those, and does not think them genuine; thinks the signature of Micheltorena on the 10th page to be genuine, but does not think the signature of Jimeno on the 11th page to be genuine. Witness says that the body of the contents of the pages 5, 6, and 7 was written by him. The marginal decree on the first page, witness thinks, was written by one Castañada, an officer in the army, who was sometimes employed

in the office of the governor to write, and, he thinks, signed by Micheltorena.

J. J. Warner, a witness on the part of the government, says, that during the time Micheltorena was governor he saw him and Jimeno, his secretary, write; was well acquainted with their handwriting; thinks the order on the margin of the first page is written by the same person, with the same pen, *and by the same person*, and at the same time; does not believe the marginal is the handwriting of Micheltorena, nor the signature, but the signature resembles his more than the main body of the writing; has no hesitation in saying that the marginal order is not his; don't think the rubrics of Micheltorena or Pablo de la Guerra on the first page *is* genuine; does not believe the signatures of either Micheltorena on the closing page, to what purports to be the grant in said document, to be genuine.

Pablo de la Guerra, a witness for the government, swears, that the rubric on the first page, purporting to be his, is not his, and does not think he ever made it; is well acquainted with the signatures of all the balance, and does not think them genuine, nor the rubrics. From the testimony in this case we are led to the conclusion that the document upon which the claim is based is in its main parts a forgery; in addition to the testimony of the witnesses, who testify as to their opinions as to the genuineness of the documents, we have the testimony of Hedspith in relation to a conversation which he had with West, the alleged grantee, in which West said to witness, a short time before his death, that he never had but the one grant, and that for the league and a half; that he had made out an application for another grant covering the six leagues, and that the person by whom he sent it to the governor never delivered it; that he and *and* the papers were lost. That part of the document which purports to be the grant and the signature of governor, on the 11th page of the same, we have no hesitation in saying is a forgery.

From the proofs before us, and on comparing the same with the various documents before us bearing the same signatures, the genuineness of which there is no doubt. The claim, we think, is not valid, and a decree will be entered rejecting the same.

(Rejected.)

Filed in office April 24th, 1855.

(Signed) GEO. FISHER, *Secretary.*

Recorded in record of Decisions, volume 2, page 633.

(Signed) GEO. FISHER, *Secretary.*

Decree.

THE HEIRS OF M. WEST vs. THE UNITED STATES. } Number 251.

In this case, after hearing the proofs and allegations, it is ad-

judged by the commission that the claim of the said petitioners is not valid; it is therefore decreed, that their application for a confirmation thereof be denied.

R. AUG. THOMPSON,
L. B. FARWELL,
Commissioners.

Filed in office April 24th, 1855.
(Signed) GEO. FISHER, *Secretary.*
Recorded in record of Decisions, volume 2, page 635.
(Signed) GEO. FISHER, *Secretary.*

And it appearing to the satisfaction of the board, that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and the papers and evidence upon which the same are founded, be made out and *only* certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary of the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy pages, numbered from 1 to 70, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 251 on the docket of the said board, wherein Marcos West is the claimant against the United States, for the place known by the name of San Miguel.

In testimony whereof, I hereunto set my hand and affix my private seal, not having a seal of office, at San Francisco, [SEAL.] California, this twenty-seventh day of October, A. D. 1855, and of the independence of the United States of America the eightieth. GEO. FISHER, *Sec'y.*

Endorsed: Filed November 7th, 1855.
JOHN A. MONROE, *Clerk.*

Notice of Appeal.

U. S. District Court.

GUADALOUPE WEST and others, rep's of Marcus West, dec'd,
vs.
THE UNITED STATES.

You will please take notice, that the claimant appeals from the

decision of the U. S. board of commissioners to ascertain and settle private land claims in the State of California rejecting the claim.

B. S. BROOKS,
Att'y for Cl't.

To SAM'L W. INGE, Esq.,
Ass't Dis't Att'y.

January 14, 1856.

Endorsed: Filed January 14, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Dep. Clerk.*

Petition for Review.

U. S. District Court for the northern district of California.

GUADALOUPE VASQUEZ DE WEST, widow, and MARCUS WEST and others, children and heirs-at-law of Marcus West, deceased,
vs.
THE UNITED STATES.

To the hon. the District Court of the United States for the northern dist. of Cal'a:

The petition of the above named claimants respectfully shows, that this cause is a proceeding, by petition by the said claimants, to obtain the confirmation to them, as the widow and heirs-at-law of Marcus West, *to obtain confirmation* of the title which they claim to have received from the Mexican government to certain lands, particularly set forth in the petition filed by these claimants before the U. S. board of land commissioners to ascertain and settle private land claims in the State of California on the 31st day of May, 1852, being six leagues of land, more or less, known as the rancho de San Miguel, situated in Sonoma county, in the northern district of California; to which petition, for a more accurate description of the said land, and for a of their title thereto, your petitioners specially refer this hon. court.

Your petitioners further show, that after the filing of said petition various documents were put in evidence before said board, and the testimony of a number of witnesses was taken, and the case was submitted to the board upon written arguments, and on the 24th day of April, 1855, Commissioner J. B. Farwell delivered the opinion of the board rejecting the claim.

Your petitioners therefore pray that the said decision of the said board be reversed, and that this hon. court may confirm the title of your petitioners to the land.

And your petitioners will ever pray, &c.

B. S. BROOKS,
Att'y for Appellants.

Endorsed: Filed January 14, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Substitution of Attorneys.

United States District Court, northern dist. of California.

THE HEIRS OF MARCUS WEST, dec'd,
vs.
THE UNITED STATES. } No. 362.

We, the undersigned, heirs of Marcus West, deceased, hereby authorize and appoint Ross and Temple to act for us as our attorneys in the above entitled action, with full power and authority to conduct, manage, prosecute, and control our interest in said action, and respectfully request that their names may be substituted upon the records of said court as our attorneys of record in said action. And we do hereby revoke, annul, cancel, and make void all power, authority, or right whatsoever by which the present attorney or attorneys of record, or any other person or persons whomsoever act or may act for us or in our names in the prosecution of said action, hereby intending to confer the full and exclusive management of said action upon the said Ross and Temple.

Sonoma county, April 8th, 1856.

her
GUADELUPE VASQUEZ DE ⋈ WEST,
mark.
MARCUS WEST,
ADELAIDE WEST,
GUADALUPE WEST,
JUAN WEST.
GUILLERMO WEST,
CARLOS WEST,
GEUOVIAN WEST,
MARIA DEL CARMEL WEST,
By B. HORN, *Guardian.*

We hereby associate E. O. Crosby, of San Francisco, with us as counsel in the within described suit, authorizing him, in our absence, to act as one of the attorneys of record, the same as we could do for, and on behalf of, the within named claimants.

ROSS & TEMPLE.

Endorsed: Filed August 4, 1856.
JOHN A. MONROE, *Clerk.*

Petition for Review.

To the Hon. the Judge of the United States District Court for the northern dist. of California.

THE UNITED STATES, Appellee,
ads.
HEIRS OF MARCUS WEST, Applts., } No. 326.

The petition of Guadelupe Vasquez de West, the widow of Marcus

West, deceased, and one of the heirs in interest in the above entitled cause, in her own right and behalf, and Berthold Horn, the guardian of and on behalf of Marcus West, Adelaide West, Guadelupe West, Juan West, Guillermo West, Carlos West, Geuovian West, and Maria del Carmel West, minor children and heirs-at-law of the said Marcus West, deceased, and respectfully represent, that they are informed and believe, that the said Marcus West, dec'd, during his lifetime, to wit, on or about the month of November, A. D. 1840, received from the then acting governor of California, under the Mexican government, a grant of land now situated in the county of Sonoma, in said State of California, and within the jurisdiction of this court, of the extent of one and one-half leagues of land, more or less, called San Miguel, and more particularly described in the original papers and map relating to said grant of land, now in the custody of the U. S. surveyor general for California, and in the transcript from the board of U. S. land commissioners of their proceedings now filed in this cause, reference being had to all said papers and transcript as part of this petition.

And your petitioners further represent, that the said Guadelupe Vasquez de West, soon after the death of her said husband, gave to M. G. Vallejo all the title papers in her possession relating to the said grant and title to the said rancho San Miguel, for the purpose of having the claim of said heirs of said Marcus West prosecuted before the board of U. S. land commissioners, appointed to settle private land claims in California, under the provisions of the law of Congress approved March 3d, 1851; that your petitioner Guadelupe Vasquez de West, being unable to read or write, is and was ignorant of the contents of said papers so delivered by her to said M. G. Vallejo.

And your petitioners further represent, that they are informed and believe that a claim in behalf of said heirs of said Marcus West, dec'd, was presented to the said board of U. S. land commissioners, wherein was claimed a much larger tract of land than that herein above set forth; and, as your petitioners are informed and believe, various papers and proofs were filed, and taken to substantiate said claim to the extent of six leagues of land, or thereabouts, all of which said papers and proofs were introduced in said proceedings before said board, by the parties having control of said proceedings, without the said heirs being acquainted with the contents of said papers, or the substance of said proofs, until within a short time they have learned the same by information, which they believe to be correct.

And your petitioners further represent, that on the hearing of said claim, before said board, and in the opinion of said board, and the final decree made by them, a portion of said papers, introduced as proof to substantiate said large claim of lands, were pronounced fraudulent and void, and the whole claim of said heirs declared by said board to be invalid.

And your petitioners further represent, that as to said papers declared fraudulent by said board, your petitioners have no knowledge, but that your petitioners are advised and believe they have a good and valid claim to one and one-half leagues of land, more or less, part and parcel of said tract so claimed before said board, as hereinbefore set forth and referred to in this petition.

Wherefore your petitioners pray that they may be allowed to take and introduce further proofs to substantiate their claim to said tract of one and one-half leagues of land, more or less, and that this court may decree their said claim to be valid, and for general relief.

her
GUADELUPE ⋈ V. DE WEST,
mark.
MARCUS WEST,
ADELAIDE WEST,
GUADELUPE WEST,
JUAN WEST,
GENEVEIVE WEST,
CARLOS WEST,
GILLERMO WEST,
MARIA DEL CARMEL WEST,
By BERTHOLD HORN,
Their Guardian.

STATE OF CALIFORNIA,
County of Sonoma, ss.

Before me, N. McMenefee, clerk of said county, and ex-officio clerk of the district court of the seventh judicial district in and for said county, personally appeared Guadelupe Vasques de West, widow of Marcus West, dec'd, and Berthold Horn, guardian of the minor children of said Marcus West, deceased, and being duly sworn, depose and say that they are the parties described in, and who present the foregoing petition; that they have heard said petition read, and know the contents thereof; that the same is true of their own knowledge, except the matters therein stated on their information and belief, and that as to those matters they believe it to be true.

her
GUADELUPE ⋈ VASQUES DE WEST.
mark.
[SEAL.] BERTHOLD HORN.

[SEAL.] In witness whereof, I have hereunto set my hand, and affixed the seal of the district court, this 3d day of June, 1856.

N. McMENEFEE, *Clerk.*
By JOEL MILLER, *Dep. Clerk.*

Endorsed: Filed August 4, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

In the Dist. Court of the U. States for the northern dist. of California.

THE UNITED STATES ads. MARCUS WEST. } D. C. 326—L. C. 251.

The United States, by their attorney, deny the validity of the title set forth in the petition of the appellant, and pray that the decision of the U. S. land commission be affirmed, and that the said title be decreed invalid.

San Francisco, Feb. 12, 1857.

WM. BLANDING, *U. S. Att'y.*

Endorsed: Filed February 12, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Jose S. Berreyesa.

United States District Court, northern district of California.

SAN FRANCISCO, *March* 13, 1857.

On this day before Cutler McAllister, a commissioner of the United States for the districts of California, duly authorized to administer oaths, &c., &c., came José S. Berreyesa, a witness produced on behalf of the claimants in case No. 326, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 251 on the docket of the said board of commissioners, and was duly sworn and testified as follows.

Present, Messrs. Ross and Crosby for claimants, and the U. S. att'y.

Questions by Att'ys for Claimants.

What is your name, age, and place of residence.

Answer. José S. Berreyesa; 38; Martinez, in Contra Costa county; I am a native Californian.

Question. Do you know Juan B. Alvarado, Antonio M. Osio, Manuel Jimeno, José L. Fernandez, and have you seen each and all of them write?

Answer. I know them all, and I have seen all of them write.

Question. Please look upon the paper now shown you, appended to, and made part of this deposition, and marked "A. C. McA. E.," purporting to be a grant from Manuel Jimeno to Marcus West, dated the 2d day of November, A. D. 1840, and state if the sig-

natures of Alvarado, Osio, Manuel Jimeno, and José L. Fernandez, upon said paper, are their genuine signatures respectively.

Answer. All of them, I think, are genuine; I have seen them all write, and sign their names.

JOSÉ S. BERREYESA.

Subscribed and sworn to before me, 13th March, 1857.

CUTLER McALLISTER,
U. S. Com'r.

Paper referred to in foregoing Deposition.

Sello 1o—Seis Pesos.

Habilitado provisionalm'te por la aduana maritima de Monterey, para los años de 1839 y 1840.

ANTONIO M. OSIO.

ALVARADO.

[SEAL.]

Manuel Jimeno Casarin, primero vocal de la Ex'ma Junta del Departam'to de las Californias, en ejercicio del Gob'no del mismo.

Por cuanto Don Marcos West, Mexicano por naturaleza ha pretendido para su beneficio personal y el de su familia el terreno que se haya situado entre los linderos de los Carrillos, la sierra del Chicino y dos arroyos en estencion de dos sitios y medio segun demuestra lo marcado en el diseño que corre agregado en el esped'te respectivo; practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos usando de las facultades que me sen conferidas, a nombre de la nacion Mexicana, he venido en conferirle el terreno mencionado, declarandole la propriedad de el por las presentes letras y sujeto a la aprobacion de la ex'ma junta departamental, y a las condiciones siguientes:

1a. Podra cercarlo sin prejudicar las travesias, caminos y servidumbres; lo disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricara casa y estara habitada.

2a. Solicitara del juez respectivo le de posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos, en cuyos limites pondra a mas de las majoneras algunos arboles frutales o silvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de dos sitios y medio de ganado mayor, poco mas o menos segun esplica el diseño que corre en el espediente. El juez que le diere la posecion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la nacion para los usos convenientes.

4a. Si contraveniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este

titulo, se tomo razon, de el en el libro que corresponde, y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, a dos de Noviembre, de mil ochocientos cuarenta.

MAN'L JIMENO.
JOSE L. FERNANDEZ, *S'rio Jur'o.*

Queda tomada razon de este titulo en el libro de terrenos adjudicados e pajos 2 Va. f'ha ut supra.

FERNANDEZ.

Endorsed: Filed March 16, 1857.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Martin E. Cook.

United States District Court, northern district of California.

MARCUS WEST
vs.
THE UNITED STATES.

SAN FRANCISCO, *March* 13, 1857.

On this day before John A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c. &c., came Martin E. Cook, a witness produced on behalf of the claimants, in case No. 326, being an appeal from the board of commissioners to ascertain and settle private land claims in California, in case No. 251 on the docket of the said board of commissioners, and was duly sworn, and testified.

Present, B. S. Brooks and William Ross, of counsel for claimants, and Wm. Blanding, esq., U. S. att'y.

Questions by Claimants.

What is your name, age, and place of residence?

Answer. Martin E. Cook; 31 years of age; reside in Sonoma county, Cal.

Question 2. Are you acquainted with Guadalupe Vasques de West, widow of Marcus West, dec'd, and the children of the said Marcus West?

Answer. I am, and have known them for about seven years last past.

Question 3. Can they, or either of them, read or write the English or Spanish language?

Answer. I have done a great deal of business for them, and know they can neither read nor write; I answer in the above manner because I have had much business to do with and for them, and they have told me they could neither read nor write; neither have I ever seen them do either.

Cross-examined by the U. S. Dist. Attorney.

I know the land claimed in this case; I believe the widow and heirs of Marcus West own, at this time, the said land; they have resided on the place ever since I knew them, and continue to do so at this time; they have their cattle on the place, occupy and cultivate it; I think I have seen the title papers; do not have any personal knowledge of the quantity of land in the rancho; I saw Mrs. West in General Vallejo's office, which adjoined my room; she had a great many papers with her, and in a bundle by themselves, which she said were the title papers of the ranch; I did not see the papers; they were tied up in a cloth; nor did I read them; one Blas Peña, who married a bastard daughter of Mrs. West, was in the room at the time with Vallejo and Mrs. West; I believe the title papers were that day given to Blas Peña, for the purpose of handing them to Messrs. Halleck, Peachy and Billings, to be presented before the board of land commissioners; General Vallejo was, at that time, administrator of the estate of Marcus West, dec'd; Blas Peña can neither read nor write.

MARTIN E. COOK.

Sworn to and subscribed before me, March 13, 1857.

JOHN A. MONROE,
U. S. Comm'r.

Endorsed: Filed March 25, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Substitution of Attorneys.

United States District Court, northern district of California.

THE HEIRS OF MARCUS WEST
vs.
THE UNITED STATES. } No. 326.

On motion of Wm. Ross, an attorney of this court, that he be substituted as the attorney of record in this cause, and on hearing the said Wm. Ross, together with his proofs, and B. S. Brooks, the late attorney of record in this cause, having been heard, it is ordered by this court that the said William Ross be substituted as the attorney of record in place of the said B. S. Brooks, esq., in the further prosecution of this cause.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed March 23, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

United States District Court, northern district of California.

SAN FRANCISCO, *March* 24, 1857.

On this day before Cutler McAllister, a commissioner of the

United States for the northern district of California, duly authorized to administer oaths ,&c., &c., came H. W. Halleck, a witness produced on behalf of the United States in case No. 326, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California in case No. 251 on the docket of the said board of commissioners, and was duly sworn, and testified as follows.

Present, Messrs. Ross and Crosby, att'ys for claimants.

Deposition of H. W. Halleck, a witness produced on behalf of the United States.

Questions by ———.

Ques. 1. Please state whether you have ever seen the grant or grants to Marcus West, at what time, and what you know about them.

Ans. 1. The paper purporting to be a grant by Governor Micheltorena to Marcus West for six leagues of land was received by the law firm of which I am a member, from Gen'l Vallejo, in the year 1851, to be presented to the board of commissioners. The paper purporting to be a grant by Governor Jimeno to Marcus West for two leagues and a half of land, now attached to the deposition of José S. Berreyesa in this case, I first saw in the hands of Capt. John B. Frisbie, in the city of San Francisco, a short time after I had withdrawn my name as counsel in the claim.

I presented to the board of commissioners the first mentioned paper, and the claim for the land which it purported to grant.

The claim was rejected by the board on the ground that that paper was not genuine. I withdrew from the case before any testimony was taken on the part of the United States against the claim.

Ques. 2. Why did you withdraw?

Ans. 2. I answer, having been counsel in the case I decline to answer, except with the consent of the present counsel for claimants.

Claimants' counsel consent that the question may be answered.

Ans. 2. I withdrew because I believed the first mentioned title paper, purporting to be signed by Micheltorena, was not genuine, and I declined to prosecute the claim under the grant signed by Jimeno, because I believed that "un sitio" in the original had been changed to "dos sitios." I had no doubt, nor have I now, of the genuineness of this latter paper, except the alteration alluded to.

Cross-examination.

Ques. 1. Please state if you know by whom the first grant was made, and the alteration in the second of which you have spoken,

and whether the present claimants, the widow and heirs of Marcus West, deceased, had any knowledge or participation in such alteration.

Ans. 1. I do not know by whom the first grant was made, nor by whom the alteration in the second was made. I do not believe either one of the claimants had any connection with or knowledge of the fraud, as they are very ignorant people, and I believe no one of them can either read or write. I had no communications with them in relation to this claim until I notified them of my withdrawal as attorney in this case, and I received no answer to my notice of withdrawal, except a verbal communication from Gen'l Vallejo that the notice had been received.

Direct Examination resumed.

Ques. 1. Please state who employed you to present this claim to the board.

Ans. 1. Gen'l Vallejo.

Ques. 2. Did you receive the six leagues grant from him?

Ans. 2. My partner, Mr. Billings, received the papers from Gen'l Vallejo, as I understood; Gen'l Vallejo spoke to me personally about prosecuting the claim in the commission under the six league grant.

Gen'l Vallejo was acting as the administrator of the estate of Marcus West, deceased; at least he represented himself as such.

Ques. 3. Who presented to you the 2d grant; was it given to you to be presented *as the bond?*

Ans. 3. It was given to me by Capt. John B. Frisbie to be presented to the board of commissioners, and I received it for that purpose; but on discovering the alteration, of which I have spoken, I declined to present it to the commissioners and returned it to him.

H. W. HALLECK.

Subscribed and sworn to before me, this 24th March, 1857.

CUTLER McALLISTER.

Endorsed: Filed March 25, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Bethuel Phelps.

U. S. District Court for the northern district of California.

WIDOW AND HEIRS OF MARCOS WEST
vs.
THE UNITED STATES.

IN THIS DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

Bethuel Phelps, of San Francisco, being duly sworn, says, that

he well knew Marco West in his lifetime; in August or September, 1848, deponent had a sloop launch which West wished to buy on a credit; and deponent then asked him about his property, and he stated that he had a large ranch at or near Santa Rosa with 1,000 or 1,500 head of cattle; he told deponent, at this time, the quantity of land which he had, which deponent does not precisely recollect, but deponent thinks it was 6 or 8 leagues; deponent had two interviews on this subject, and was satisfied from these statements of his responsibility; deponent is positive that the quantity claimed was much more than a league and a half or two leagues; deponent made inquiries at the same time of other parties and was satisfied of the truth of his statements, and sold him the launch.

BETHUEL PHELPS.

Sworn to before me, this 31st day of March, 1857.

W. H. CHEVERS,
Deputy Clerk.

Endorsed: Filed April 6th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of J. B. R. Cooper.

U. S. District Court for the northern district of California.

WIDOW AND HEIRS OF MARCO WEST
vs.
THE UNITED STATES.

NORTHERN DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

John B. R. Cooper, of the city of Monterey, being duly sworn, says, that he is the owner of the rancho el "Molino," in Sonoma county, which was originally granted to him in 1835, and was the first settler there. West came a year or two afterwards and got a grant, in the first place, for the land lying between the Mark West creek, the line of the now Santa Rosa road, and my line. Some time afterwards, about 1838 to 1840, West spoke to me about the land on the east side of the Laguna Santa Rosa, and asked me how much I intended to ask for. I told him that I did not intend to take any more of it than I could help. He then told me that he should petition for the land lying between the land now held by him and my ranch, the Laguna and the ranch of Fetch. I know that he instituted proceedings to obtain the title, and that the espediente was commenced. I did not reside permanently on my ranch; my family resided in Monterey, and I usually resided there, but I frequently visited my ranch. After this time I know that West occupied the land up to the Fetch line with his cattle, and always claimed it as his, and his neighbors respected his claim,

and I never knew of any one disputing it. The land between the Santa Rosa ranch, my ranch, Fetch's ranch and the hills, contains about six leagues of land; this was the land that West claimed as his.

JOHN B. R. COOPER.

Sworn to before me, this 31st day of March, 1857.

JOHN A. MONROE,
U. S. Commissioner.

Endorsed: Filed April 6, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of John B. Frisbie.

United States District Court for the northern district of California.

HEIRS OF MARK WEST
vs.
THE UNITED STATES.

NORTHERN DISTRICT OF CALIFORNIA, *ss.*

John B. Frisbie, of the town of Vallejo, being duly sworn, says, that some time in the year 1853, but at what particular time of that year deponent cannot state, he happened by chance to enter the office of General M. G. Vallejo, at Sonoma, being there on his way to San Francisco; that Mrs. Guadalupe Vasquez de West was either there when he entered or came in while he was there; some one, he thinks Mrs. West, took out of a bundle of papers, wrapped up in handkerchief or a piece of cloth, a paper, which General Vallejo requested this deponent to deliver to Halleck, Peachy & Billings; this deponent received the said paper, and, as requested, carried it to Halleck, Peachy & Billings. The paper purported to be grant for 2½ leagues of land to Marco West, and deponent has no other knowledge of this paper than what is now stated; but such as it was delivered by Mrs. West, in the same condition it was by him delivered to HaHeck, Peachy & Billings, and this was a long time after the claim in this case had been filed before the board of U. S. land commissioners; and as to the other papers filed in this cause he knows nothing about them.

JOHN B. FRISBIE.

Sworn to before me this 2d day of April, 1857.

W. H. CHEVERS, *Deputy Clerk.*

Endorsed: Filed April 6, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of T. M. Leavenworth.

U. S. District Court for the northern district of California.

WIDOW AND HEIRS OF MARK WEST
vs.
THE UNITED STATES.

NORTHERN DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

Thaddeus M. Leavenworth, being duly sworn, says, that on the 3d day of October, A. D. 1848, he entered into a contract with Mark West for the purchase of a league of land in his rancho of San Miguel, which contract is in writing, and is recorded in this county, recorder's office of San Francisco county, in liber M of Deeds, pages 499 and 500, on the same day. And at that time the said West pretended to a tract of land containing six leagues at least. I think he said that it contained six leagues. This was only a few months prior to his death. Deponent inquired at the time of the colindantes as to the title of the said Mark West to the said six leagues of land, and was told by them that his title thereto was good, beyond doubt. At the time that West entered into this contract of sale with me, he gave as his reason for selling that he had more land than he needed, and could well spare that league; that the balance of the land was a sufficient provision for his family. One of the colindantes, of whom I inquired, was Juan Wilson, the grantee, and then owner of the Guilicis, who now resides at San Luis Obispo; also of Capt. Cooper; also of Judge Fetch, the grantee of the "El Molino," which bounds west on his northwesterly side; also of Judge Fetch's vaquero, Moses Carson.

T. M. LEAVENWORTH.

Sworn to before me this 1st day of April, 1857.

W. H. CHEVERS, *Deputy Clerk.*

Endorsed: Filed April 6th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of Julio Carrillo.

U. S. District Court for the northern district of California.

GUADALUPE VASQUEZ DE WEST et al.
vs.
THE UNITED STATES.

NORTHERN DISTRICT OF CALIFORNIA,
City of San Francisco, ss.

Julio Carrillo, of Santa Rosa, being duly sworn, says, that on the 29th day of March instant he went, at the request of Gen'l M. G. Vallejo, to the rancho San Miguel to obtain the attendance of the claimant, Guadalupe Vasquez de West, in San Francisco, to

make a deposition in this case; that said Guadalupe readily consented to accompany him, and proceeded with him on the way; that, while passing through Santa Rosa with Mrs. West, they met Judge Ross, who accosted *Mr.* West, and told her not to go. He told her that Gen'l Vallejo and his lawyers were endeavoring to rob her of her property. Deponent further says, that when he had arrived at deponent's dwelling with said Mrs. West, the said Ross came there, and taking Mrs. West into a private room, had much conversation with her, which deponent did not hear, after which Mrs. West refused to proceed further, and returned to her own house. While at deponent's house, Mrs. West proposed to Judge Ross that they should proceed together to San Francisco, but he refused to do so.

Deponent further saith, that he has lived in the neighborhood of rancho San Miguel since 1839, upon the rancho Cabeza de Santa Rosa, which is contiguous to, or colindante with, said rancho San Miguel. Deponent knew said West in his lifetime; was frequently on his ranch during his lifetime; deponent knows well, and positively avers, that said West, during his lifetime, claimed the whole of said ranch as represented on his map, called the ranch of six leagues. He occupied the whole of it with his cattle, and his possession of the whole ranch was never disputed by any of his neighbors. Deponent was present when juridical possession was given to the Fitch ranch, which bounds the rancho San Miguel on the north side, between which and the Mark West creek is the disputed land; at which time Mark West was also present, and at that time the line was run between the two ranchos, according to the six league claim, and all the other ranchos bounding on it were located and always occupied in the same way—that is, recognising the claim of Mark West to the six leagues.

Deponent further saith, that he has frequently conversed with Mrs. West since her husband's death on this subject, and she has at all times claimed the land as well between this creek and the Fitch line as between the creek and the Santa Rosa line. Deponent further says, that the line between the Fitches and Mark West did not follow the meanderings of the Arroyo Seco, but, starting from its junction with the Russian river, ran in a straight line to the hills, falling somewhat inside of the arroyo, and touches the branches of the arroyo on the hills.

Deponent further says, that the lands claimed by Mark West in his lifetime were the lands bounded on the southerly side by the Cabeza de Santa Rosa, on the westerly side by the rancho El Molino of Juan B. R. Cooper, on the northerly side by the rancho Sotoyme of Henry Fitch, on the easterly side of the Rincon, on the easterly side of the hills, which is a small valley, a portion of which is included in said rancho.

Deponent further says, that on the proceedings of juridical possession before referred to, deponent was present as an assisting witness. Jasper O'Farrell, the government surveyor, was there, and

ran the line. Jacob P. Leese, the alcalde of Sonoma, was the magistrate; Ramon Carrillo, Alexander, José Manett Tiband, (who is now dead,) a man nicknamed Pechon, whose true name I don't recollect, and several others whom I do not recollect. West was very particular in defining his boundaries, and would not permit me to cross his lines in search of my cattle, and frequently quarrelled with the other neighbors on that subject, but they never disputed his boundaries.

At the time West petitioned for the land there was plenty of vacant land in that region, and there was no difficulty in obtaining concessions from the government, and if said West had asked for eleven leagues which were vacant, I believe it would have been granted to him. The government was anxious to have that part of the territory settled, and frequently assisted the colonists, not only escorting them on their way, but supplying them with cattle and necessaries whenever they required them.

My age is 31 next August.

JULIO CARRILLO.

Sworn to before me this 31st March, 1857.

W. H. CHEVERS, *Deputy Clerk.*

Endorsed: Filed April 6th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of J. O'Farrell.

U. S. District Court.

HEIRS OF MARK WEST, Appellants,
vs.
THE UNITED STATES, Respondents.

NORTHERN DISTRICT OF CAL.,
City and County of San Francisco, ss.

Jaspar O'Farrell, being duly sworn, deposes and says, that he was government surveyor under the late government; that he attended in that capacity on the proceedings in delivering judicial possession of Fitch's ranch, which was separated from the lands of Marc West by the Arroyo Seco shown upon his map; that in giving said judicial possession, West's lands were considered and treated running up to said Arroyo Seco; West claimed up to that time, as shown in his diseño, and no one disputed his claim to the best of his knowledge and belief. He claimed seven and one-half or eight leagues of land. He had some document or documents which called for six leagues, from an alcalde—a provisional grant. Deponent never saw in his possession any grant from the governor for six leagues, but is certain that said West had some license or provisional grant of six leagues from an alcalde or prefect; also

a grant from the governor on sealed paper, for two leagues or one and a half leagues of land, being the land he first settled upon, and on which he built his house and improvements.

JASPAR O'FARRELL.

Sworn to and subscribed before me April 17, 1857.

W. H. CHEEVERS,
Deputy Clerk.

Endorsed: Filed April 17, 1857.

JOHN A. MONROE, *Clerk.*
W. H. CHEEVERS, *Deputy.*

Decree of Confirmation.

United States District Court, for the northern district of California.

THE UNITED STATES, Appellees, vs. THE HEIRS OF MARCOS WEST, deceased, Appellants. } Docket No. 326. Transcript No. 251.

Stated Term—June 2d, 1857.

This cause coming on to be heard on appeal from the final decision of the board of land commissioners appointed to settle private land claims in California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision of said board, and the papers and evidence upon which said decision was founded, all of which have been duly filed in this court, and upon further proceedings and evidence taken in this cause by order of this court, and counsel for the respective parties having been duly heard, it is ordered, adjudged, and decreed, that the decision of said board rejecting said claim be vacated and set aside; and it is further ordered, adjudged and decreed, that the claim of the said heirs of Marcus West, deceased, be, and the same is hereby confirmed, and their said title declared a good and valid one to the extent hereinafter mentioned.

The lands of which confirmation is hereby made are known by the name of San Miguel, situated in the present county of Sonoma, in said district and State, containing one and one-half square leagues of land, reference being had for more particular description of said land to the original grant attached to the deposition of J. S. Berreyesa, taken in this court, for the boundaries of said land, but not for the quantity, and the espediente relating to said land filed in the archives of the Mexican government in California, of the date of 1840, which said espediente is now in the custody of the U. S. surveyor general for California.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed June 2, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order Granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the 30th day of November, 1857.

Present, Hon. Ogden Hoffman, district judge.

THE UNITED STATES vs. HEIRS OF MARCUS WEST. } No. 326—L. C. 251.

In this case, on application of P. Della Torre, esq., U. S. attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court rendered in said cause at the present term, be, and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed November 30th, 1857.

JOHN A. MONROE, *Clerk.*

I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed pages from one to ninety-five inclusive contain a full, true and correct transcript of the record on file from the board of land commissioners, together with the pleadings, depositions, orders and decree filed in this office, in the case entitled The heirs of Marcus West, appellees, vs. The United States, appellants.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court this fifth day of February, A. D. 1858, and of our independence the 82d.

[SEAL.]

JOHN A. MONROE, *Clerk.*

By W. H. CHEVERS, *Deputy.*

Filed 26th March, 1858.